

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 20659
[Redacted],	)	
	)	DECISION
Petitioners.	)	
_____	)	

This case arises from a timely protest of a State Tax Commission decision denying the property tax reduction benefit (Circuit Breaker) for 2007. This matter was submitted for decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision thereon.

[Redacted] filed an application for Circuit Breaker on April 23, 2007. Because Idaho Code requires an applicant to submit application by April 15, a deputy assessor with [Redacted] County sent the petitioners a letter advising them that their Circuit Breaker reduction had been denied.

The petitioners appealed the decision to the [Redacted] County Commissioners, and a hearing was held on May 15, 2007. At the conclusion of the hearing, [Redacted], sent the petitioners a letter stating the Board of [Redacted] County Commissioners, sitting as the Board of Equalization on May 15, 2007, voted to approve the petitioners' application for the 2007 Circuit Breaker. The petitioners' application was forwarded to the State Tax Commission for processing.

The State Tax Commission staff sent the petitioners a notice advising them of the intent to deny their application for the Circuit Breaker benefit because they did not submit their application to the county until the statute of limitations had expired. The petitioners appealed the

intended action, and their file was transferred to the Legal/Tax Policy Division for administrative review.

All property within the jurisdiction of this state is subject to property tax. A property tax reduction benefit is available to certain qualifying individuals. The benefit is in the form of payment of all or a portion of the applicant's property tax on the dwelling he/she owns and occupies. The payment is funded by state sales tax. The amount of property tax reduction depends on income--the greater the income, the smaller the benefit.

The State Tax Commission must approve or deny applications for the Circuit Breaker benefit.

Idaho Code § 63-707 in pertinent part states:

(4) The state tax commission shall determine the total number of claims to be allowed in each county, the dollar amount of each claim allowed, and the total dollar amount for all claims for each county. These amounts shall be certified to the county auditor and tax collector by the state tax commission by no later than the third Monday in November.

(5) The state tax commission may audit each and every claim submitted to it, and, any other provision of law notwithstanding, may utilize income tax returns filed by the claimant or by the claimant's spouse to determine the income of the claimant or the claimant's spouse.

(6) If it is determined by the state tax commission that a claim is erroneous, the tax commission shall disapprove so much of the claim as necessary in order to conform with statutory standards. The tax commission shall provide the claimant, or the person or entity acting on behalf of the claimant, written notice of the tax commission's intent to disapprove all or a portion of the claim. The claimant, or the person or entity acting on behalf of the claimant, shall have fourteen (14) days to make written protest to the tax commission of the intended action. The claimant, or the person or entity acting on behalf of the claimant, may submit additional information and may request an informal hearing with the commission. If the claimant, or the person or entity acting on behalf of the claimant, fails to make written protest within fourteen (14) days, the tax commission shall provide written notice of

disapproval to the claimant, or the person or entity acting on behalf of the claimant, by the fourth Monday of October and to the county auditor of the county from which the claim was received. Any claimant, or person or entity acting on behalf of the claimant, whose claim is disapproved in whole or in part by the state tax commission may:

(a) File a claim with the county commissioners for a special cancellation pursuant to section 63-711, Idaho Code;

(b) Appeal such disapproval by the state tax commission to the board of tax appeals or to the district court of the county of residence of the taxpayer within thirty (30) days.

The application was untimely and must be denied. Idaho Code § 63-706(1) states:

**63-706. Time requirements for filing claim.** (1) Any claim for property tax reduction to be granted under the provisions of sections 63-701 through 63-710, Idaho Code, **shall be filed** in the office of the county assessor between January 1 and April 15 of each year. The county assessor shall examine each claim and determine whether it is in conformity with section 63-701, Idaho Code, and shall accordingly approve, modify or disapprove the claim in total at the time the application is received. Additionally, the county assessor shall notify the claimant in writing by May 1 if his claim has been modified or has been disapproved. The notice of modification or disapproval shall declare that the claimant may appeal the assessor's decision to the county board of equalization, and shall state the time and place that the county board of equalization shall meet for such purposes. (Emphasis added.)

In the petitioners' protest letter and several conversations with the State Tax Commission, the petitioners did not claim that their application was filed timely. Rather, they explained the circumstances that resulted in an untimely application. [Redacted] said that his application should be accepted because he is a 100 percent disabled veteran. He said, "As to the dispute between [Redacted] County assessor office decision and Idaho State Tax Commission should be resolved between [Redacted] County and the Idaho State Tax Commission not the people."

The law is clear when it requires the application ". . . shall be filed in the office of the county assessor between January 1 and April 15 of each year." Neither the [Redacted] County Commissioners nor the [Redacted] County Assessor had the authority to extend the statute of limitation for "good cause." If the State Tax Commission were to permit the counties to extend the statute of limitations at the counties' discretion, the State Tax Commission would be permitting the counties to trespass into the legislative arena. [Redacted] County had no authority to extend or modify a statutory limitation period.

The petitioners did not file their application until April 23, 2007. They must be denied the 2007 Circuit Breaker benefit.

The Tax Commission is aware there is some potential this decision could cause a hardship to the property tax reduction applicant. The proper jurisdiction to handle such hardship situations falls with the county commissioners under Idaho Code § 63-711.

WHEREFORE, the decision of the State Tax Commission staff is APPROVED, AFFIRMED, and MADE FINAL.

An explanation of the petitioners' right to appeal this decision is enclosed.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

### **CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2007, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.

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